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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,649	09/21/2001	Vivian Pecos	4940/1M	5265

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EXAMINER
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PARTON, KEVIN S

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/960,649

Applicant(s)

PECUS ET AL.

Examiner

Kevin Parton

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01/24</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

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## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/960637. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

~~The subject matter claimed in the instant application is fully disclosed in the~~  
referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter as follows:

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The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter as follows:

Claim 1 (09/960,649): An edge node that receives content from a network operations center (NOC) via a satellite broadcast link and distributes it to a last mile service provider, the edge node comprising:  
One media server capable of serving both live and non-live content;  
A private virtual local area network (VLAN) that receives content from the satellite link and distributes it to the media server;  
A public VLAN that transmits the received content from the server to a last mile service provider;  
Where the media server is connected to both the public and private VLANs; and where the media server, private VLAN, and public VLAN exist in a single computer.

Claim 1 (09/960,637): An edge node that receives content from a network operations center (NOC) via a satellite broadcast link and distributes it to end users, the edge node comprising:  
One or more media servers capable of serving both live and non-live content;  
A private virtual local area network (VLAN) that receives content from the NOC through the satellite link and distributes it to the media servers;  
A public VLAN that transmits the received content from the server to the end users;  
Where the media server is connected to both the public and private VLANs; and where the media server, private VLAN, and public VLAN are contained in a portable enclosure.

The differences between the claims are:

- a. Distribution to a "last mile service provider" opposed to an "end user."
- b. One media server opposed to "one or more."
- c. All elements "exist in a single computer" opposed to "contained in a portable enclosure."

Regarding difference (a), it would be obvious to one of ordinary skill in the art that the last-mile-service-provider is referred to as that because it is the last point in the delivery of the information to a user. As such, these two terms are essentially the same.

Regarding difference (b), one media server (as in the instant claim) is fully encompassed by the limitation of one or more media servers.

Regarding difference (c), it would be obvious to one of ordinary skill in the art that to exist in a single computer is encompassed by being contained in a portable enclosure. The further limitation of placing it in a single computer benefits the system by decreasing size and footprint of the system.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1 and 4 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. ~~Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Adrangi~~  
(USPN 6,651,141).

6. Regarding claim 1, Adrangi (USPN 6,651,141) teaches an edge node that received content from a network operations center (NOC) via a satellite broadcast link and distributes it to a last mile service provider, the edge node comprising:

a. One media server capable of serving both live and non-live content

(column 2, lines 39-49; *a group of network servers*).

- b. A private virtual local area network (VLAN) that receives content from the satellite link and distributes it to the media server (column 4, lines 29-51; column 11, lines 12-20).
- c. A public VLAN that transmits the received content from the server to a last mile server (column 2, lines 30-58; column 11, lines 12-20).
- d. Where the media server is connected to both the public and private VLANs; and where the media server, private VLAN, and public VLAN exist in a single computer (column 2, lines 30-58; column 11, lines 12-20). Note that a single computer could provide all the functions in the reference.

7. Regarding claim 2, Adrangi (USPN 6,651,141) teaches all the limitations as applied to claim 1. He further teaches a VPN connecting the public VLAN to the private VLAN (column 4, lines 29-51).

8. Regarding claim 3, Adrangi (USPN 6,651,141) teaches all the limitations as applied to claim 2. He further teaches means wherein the VPN allows access to the private VLAN from a remote location (column 4, lines 29-51).

9. Regarding claim 4, Adrangi (USPN 6,651,141) teaches an edge node that receives content from a network operations center (NOC) via a satellite broadcast link and distributes it to a last mile service provider, the edge node comprising:

- a. A processor that executes code for serving both live and non-live content (column 2, lines 39-49; *a group of network servers*).

- b. A satellite interface, connected to the processor, that receives content from the satellite link (column 4, lines 29-51; column 11, lines 12-20).
- c. A wire network interface, connected to the processor, for transmitting content to the last mile service provider (column 2, lines 30-58; column 11, lines 12-20).
- d. Where the processor, satellite interface, and wire network interface exist in a single personal computer (column 2, lines 30-58; column 11, lines 12-20).

10. Regarding claim 5, Adrangi (USPN 6,651,141) teaches all the limitations as applied to claim 1. He further teaches means wherein a terrestrial link provides a back channel to the NOC (figure 2). Note that any type of wired network may be available for communication between the content providers and the edge nodes.

11. Regarding claim 6, Adrangi (USPN 6,651,141) teaches all the limitations as applied to claim 4. He further teaches means wherein a terrestrial link provides a back channel to the NOC (figure 2). Note that any type of wired network may be available for communication between the content providers and the edge nodes.

12. Regarding claims 7 and 8, Adrangi (USPN 6,651,141) teach all the limitations as applied to claims 1 and 4, respectively. He further teaches means wherein the content is streamed (column 2, lines 50-51).

13. Regarding claims 9 and 10, Adrangi (USPN 6,651,141) teaches all the limitations as applied to claims 1 and 4. He further teaches one or more additional media servers

(or processors) capable of serving both live and non-live content (column 2, lines 45-53).

14. Regarding claim 11, Adrangi (USPN 6,651,141) teaches all the limitations as applied to claim 1. He further teaches shared storage connected to the private VLAN (column 2, lines 35-51).


15. Regarding claim 12, Adrangi (USPN 6,651,141) teaches all the limitations as applied to claim 4. He further teaches shared storage connected to the satellite interface and the processor (column 2, lines 35-51).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Parton whose telephone number is (571)272-3958. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
GLENTON B. BURGESS  
SUPERVISORY PATENT EXAMINER  
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Art Unit: 2153

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Examiner  
Art Unit 2153

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